

191110

(Caption of Case)

In re: Application of Chem-Nuclear Systems, LLC, for Adjustment in Levels of Allowable Costs and for Identification of Allowable Costs (FY 2007-2008)

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2000 - 366 - A

(Please type or print)

Submitted by: Robert T. Bockman, Esquire
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DOCKETING INFORMATION (Check all that apply)

- Emergency Relief demanded in petition
Request for item to be placed on Commission's Agenda expeditiously
Other:

Table with 2 main columns: INDUSTRY (Check one) and NATURE OF ACTION (Check all that apply). Includes categories like Electric, Gas, Water, and various legal actions like Affidavit, Agreement, Motion, etc.

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ATTORNEYS AND COUNSELORS AT LAW

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February 28, 2008

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2008 FEB 28 PM 1:59
SC PUBLIC SERVICE
COMMISSION

Mr. Charles L. A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211

Re: *Application of Chem-Nuclear Systems, LLC*
(SCPSC Docket No. 2000-366-A) (2007-2008 Proceeding)

Dear Mr. Terreni:

Please find enclosed for filing the original and ten (10) copies of the Amended Application and Amended Exhibits of Chem-Nuclear Systems, LLC, a Division of Duratek, Inc., for Adjustment in the Levels of Allowable Costs and for Identification of Allowable Costs for Fiscal Year 2006-2007. We are filing the Amended Application in accordance with S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2007) and the Commission's rules of practice and procedure.

In addition, I am also enclosing the original and twenty-five (25) copies of the prefiled Direct Testimony of James W. Latham for Applicant Chem-Nuclear Systems, LLC in accordance with the Docketing Department's memorandum dated January 8, 2008.

As the Certificate of Service for the Amended Application and Direct Testimony indicates, we have formally served a copy of these documents on those parties which S.C. Code Ann. § 48-46-40(B)(9) (Supp. 2007) designates as parties to this proceeding. By copy of this letter, we are providing a copy of the documents to the appropriate officials of the Atlantic Compact Commission and the South Carolina Department of Health and Environmental Control which Section 48-46-40(B)(9) (Supp. 2007) designates as discretionary parties, and we are providing a copy to other counsel of record.

Should you have any questions with respect to this filing, please do not hesitate to contact me.

Very truly yours,

Robert T. Bockman

Enclosures

- cc: The Honorable Henry Dargan McMaster (w/encl.)
- The Honorable C. Earl Hunter (w/encl.)
- Frank R. Ellerbe, III, Esquire (w/encl.)
- Len S. Anthony, Esquire (w/encl.)
- Derrick K. McFarland (w/encl.)
- K. Chad Burgess, Esquire (w/encl.)
- W. Mitchell Willoughby (w/encl.)
- Jeff M. Nelson, Esquire (w/encl.)
- William F. Austin, Esquire (w/encl.)

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PSC SC
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BEFORE THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

Docket No. 2000-366-A

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SC PUBLIC SERVICE
COMMISSION

IN RE: Application of Chem-Nuclear Systems,)
LLC, a Subsidiary of Energy Solutions for)
Adjustment in the Levels of Allowable)
Costs and for Identification of Allowable)
Costs (FY 2007-2008 Proceeding))
_____)

**CERTIFICATE
OF SERVICE**

I, ElizaBeth A. Blich, do hereby certify that I have this date served one (1) copy of the Amended Application of Chem-Nuclear Systems, LLC for FY 2007-2008 and the prefiled Direct Testimony of James W. Latham upon the following parties of record by causing said copies to be deposited with the United States Postal Service, first class postage prepaid and properly affixed thereto, and addressed as follows:

The Honorable Henry Dargan McMaster
Attorney General
State of South Carolina
Post Office Box 11549
Columbia, South Carolina 29211

The Honorable C. Earl Hunter
Commissioner
SCDHEC
2600 Bull Street
Columbia, South Carolina 29201

Frank R. Ellerbe, III, Esquire
Robinson McFadden & Moore, PPC
Post Office Box 944
Columbia, South Carolina 29202

Len S. Anthony, Esquire
Deputy General Counsel-Carolinas
Progress Energy Carolinas, Inc.
Post Office Box 1551
Raleigh, North Carolina 27602

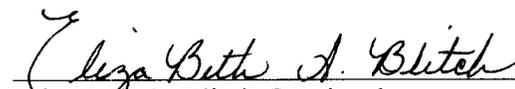
Derrick K. McFarland, Esquire
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1441 Main Street, Suite 300
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ElizaBeth A. Blich, Paralegal
McNAIR LAW FIRM, P.A.
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Columbia, South Carolina 29211
(803) 753-3319

February 28, 2008
Columbia, South Carolina

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2000-366-A

IN RE: Application of Chem-Nuclear Systems,)
LLC, a subsidiary of Duratek, Inc., for)
Adjustment in the Levels of Allowable)
Costs and for Identification of Allowable)
Costs)
_____)

AMENDED
APPLICATION
(for Fiscal Year 2007-2008)

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SOUTH CAROLINA
PUBLIC SERVICE
COMMISSION

Pursuant to the provisions of S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2007), Chem-Nuclear Systems, LLC, a subsidiary of Duratek, Inc., (“Chem-Nuclear” or the “Company”) submits this Amended Application for adjustment in the levels of certain “allowable costs” and for the identification of certain “allowable costs” for the operation of its regional low-level radioactive waste disposal facility located in the vicinity of Barnwell, South Carolina. In support of the relief which it requests in this Amended Application, Chem-Nuclear would respectfully show unto this honorable Commission:

1. On June 6, 2000, the Governor of the State of South Carolina signed the Atlantic Interstate Low-Level Radioactive Waste Compact Implementation Act (the “Act”). The Act is codified as S.C. Code Ann. §§ 48-46-10, *et seq.* (1976), as amended.

2. Section 48-46-40(B)(1) of the Act authorizes and directs the Commission “to identify allowable costs for operating a regional low-level radioactive waste disposal facility in South Carolina.” Section 48-46-30(1) defines “allowable costs” as “costs to a disposal site operator of operating a regional disposal facility.” Under that definition, such costs “are limited to costs determined by standard accounting practices and regulatory findings to be associated with facility operations.”

3. Section 48-46-40(B)(3) provides that “allowable costs” expressly include the costs of certain specifically identified activities necessary in the operation of a low-level radioactive waste disposal facility. That Section also provides that “allowable costs” include “any other costs directly associated with disposal operations determined by [the Commission] to be allowable.”

4. Chem-Nuclear operates a regional low-level radioactive waste disposal facility (the “Facility”) in Barnwell County, South Carolina. Consequently, the Commission has the authority to identify the “allowable costs” for the Company’s operation of the Facility.

5. The Facility is located on a tract of land consisting of approximately 235 acres which the State of South Carolina owns and which the Company leases from the South Carolina Budget and Control Board (the “Board”). The 235-acre site includes areas for various operations, including completed disposal trenches, potential trench areas, ancillary facilities, water management areas and buffer zone areas.

6. The Company conducts its operations at the Facility under South Carolina Radioactive Material License 097 (“License 097”) by which the South Carolina Department of Health and Environmental Control (“DHEC”) has authorized receipt, storage and disposal of low-level radioactive waste at the Facility. License 097 contains numerous technical conditions and specifications for management of waste at the Facility. The Company submitted an application to DHEC on April 28, 2000, for renewal of License 097. The DHEC staff recommended approval of the renewal of License 097, and the decision was affirmed by the South Carolina Administrative Law Court. The matter is currently pending appellate review. In addition to the requirements of License 097, the Facility is subject to DHEC’s regulations in 24A S.C. Code Reg. 61-63 (Title A) (Supp. 2007). DHEC’s regulations are compatible with the

provisions of “Licensing Requirements for Land Disposal of Radioactive Wastes,” which the United States Nuclear Regulatory Commission (“NRC”) originally promulgated in 10 CFR Part 61, and which DHEC has adopted most of those provisions and enforces them through its own regulations under an agreement with the NRC.

7. On June 7, 2007, the Commission issued its Order No. 2007-418 in this docket. In that Order, the Commission identified certain categories of “allowable costs” and identified levels of “allowable costs” within those categories. Order No. 2007-418 approved certain rates for variable allowable costs and identified the sum of \$7,859,163 for total fixed allowable costs for the 12 months ending June 30, 2007. The Order also approved irregular costs of \$209,766 as allowable costs.

8. S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2007) provides that an operator of a low-level radioactive waste disposal site may apply for adjustments in the levels of “allowable costs” that the Commission has identified for the previous fiscal year and for identification of costs that the Commission has not previously identified as “allowable costs.” Upon approval of such application, Section 48-46-40(B)(4) requires the Commission to authorize the site operator to adjust its “allowable costs” for the current fiscal year to compensate the site operator for revenues lost during the previous fiscal year.

9. On September 26, 2007, the Company filed an Application (the “Original Application”) seeking certain relief in the nature of the Commission’s recognition of levels of “allowable costs” for the Company’s fixed costs for Fiscal Year 2006-2007, the identification of the levels of irregular costs for Fiscal Year 2006-2007, and the identification as “allowable costs” and approval of total fixed and irregular costs and of variable cost rates for Fiscal Year 2007-2008. By this Amended Application, the Company proposes certain revisions in the

figures contained in the Original Application and its exhibits to reflect the Company's reconciliation of certain issues with the Office of Regulatory Staff. The Company's testimony in this proceeding will explain further the basis for the revisions.

10. For the purposes of this Amended Application and its Exhibits, the Company has used the cost categories that the Commission approved in Order No. 2007-418, which were based on the recommendations of the parties to the Collaborative Review of the Company's Operations and Efficiency Plan ("OEP").

11. During the Company's recently concluded Fiscal Year 2006-2007 (*i.e.*, the twelve months ending June 30, 2007), the Company's actual "allowable costs" in those categories that the Commission identified in Order No. 2007-418 for fixed costs were \$7,205,468. By this Amended Application, the Company requests the Commission to approve the levels of fixed allowable costs for Fiscal Year 2006-2007 to permit the Company to be compensated for those allowable fixed cost components identified in Order No. 2007-418, as authorized by Section 48-46-40(B)(4). Consequently, the Company proposes no adjustment for allowable fixed costs in this Amended Application.

12. With respect to those allowable costs which Order No. 2007-418 characterized as irregular costs, the Company incurred total irregular costs for Fiscal Year 2006-2007 of \$590,415. The irregular costs that the Company actually experienced exceeded the level of total allowable irregular costs of \$209,766 identified in Order No. 2007-418. Consequently, the Company requests that the Commission identify \$380,649 as the adjustment for allowable irregular costs for Fiscal Year 2006-2007.

13. With respect to the allowable costs that Order No. 2007-418 characterized as variable labor and non-labor costs, which are dependent upon volumes of waste buried, the Company incurred actual costs in the category of variable labor and non-labor costs in Fiscal

Year 2006-2007 which are \$19,859 less than the costs identified in Order No. 2007-418, using the variable cost rates identified by the Commission in that Order for categories of waste and using the volumes of waste buried in Fiscal Year 2006-2007. Therefore, the Company does not request any adjustments for variable labor and non-labor costs in this Amended Application.

14. With respect to vault costs, Order No. 2007-418 established certain variable cost rates for each type of waste disposed at the Facility. By applying those rates to the volumes of each type of waste actually buried in Fiscal Year 2006-2007, the Company calculated a total cost for routine disposal vaults of \$1,387,707. Based on the Company's actual experience in Fiscal Year 2006-2007, the Company incurred a cost of \$1,551,381.73 for routine disposal vaults. Therefore, the Company requests an adjustment of \$163,674 for vault costs in this Amended Application

15. The Company has attached to this Amended Application three (3) Exhibits pertaining to the adjustments and identification of the three (3) categories of "allowable costs" for its disposal operations.

16. Amended Exhibit A to this Amended Application describes in detail the Company's proposed adjustments for the recovery of its actually incurred costs for fixed, variable and irregular costs to reflect the differences between the level of "allowable costs" identified in Order No. 2007-418 and the level of the Company's actually incurred costs in Fiscal Year 2006-2007. Amended Exhibit A also provides the rates for variable costs which were contained in Order No. 2007-418.

17. Amended Exhibit B describes the actual irregular costs which the Company incurred in Fiscal Year 2006-2007, organized by project number.

18. Amended Exhibit C depicts the total fixed costs, irregular costs and variable cost rates that the Company proposes for identification and approval for Fiscal Year 2007-2008.

19. For Fiscal Year 2007-2008, the Company requests identification as “allowable costs” a total of \$7,944,000 as allowable fixed costs, as depicted in Amended Exhibit C. Amended Exhibit C also identifies variable material cost rates and variable waste dependent labor rates for Fiscal Year 2007-2008. Irregular costs for Fiscal Year 2007-2008 anticipated at the time of this Amended Application are \$315,000, as specified in Amended Exhibit C. The costs and amounts in Amended Exhibits A and C are consistent with the description of “allowable costs” in Section 48-46-40(B)(3), and they have been determined by standard accounting practices and are consistent with the recommendations of the Collaborative Review of the OEP as the Commission approved in Order No. 2004-349 in this Docket.

WHEREFORE, Chem-Nuclear Systems, LLC, a subsidiary of Duratek, Inc., respectfully prays unto this honorable Commission:

1. To review the Company’s Amended Application and issue its Order, under S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2007), recognizing the levels of “allowable costs” as depicted in Amended Exhibit A for Fiscal Year 2006-2007, and identifying the levels of irregular costs in Amended Exhibit B for Fiscal Year 2006-2007, and identifying as “allowable costs” those costs depicted in Amended Exhibit C for Fiscal Year 2007-2008.
2. For such other and further relief as is just and proper.

Respectfully submitted,

Robert T. Bockman
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

By: Robert T. Bockman

Attorneys for Chem-Nuclear Systems, LLC

February 23, 2008
Columbia, South Carolina

**AMENDED EXHIBIT A:
FISCAL YEAR 2006-2007 COSTS**

Fixed Costs: No Adjustment Proposed

Fixed costs, subject to a 29% operating margin, were incurred in fiscal year 2006-2007 in the general categories of labor-related costs, non-labor costs, costs allocated from corporate functions, equipment leases and support, depreciation and insurance. Fixed costs, **not** subject to a 29% operating margin, were incurred in fiscal year 2006-2007 in the general categories of employee retention compensation, legal (license appeal) and intangible asset amortization. The following table compares the actual costs incurred to the costs identified as allowable in Commission Order No. 2007-418:

	Commission Order No. 2007-418	Actual Costs Incurred in FY 2006-2007	Adjustment Proposed
Labor and Fringe	\$3,170,000	\$2,751,908	
Non-Labor	\$1,232,000	\$889,656	
Corporate Allocation (G&A)	\$1,245,272	\$1,254,790	
Equipment leases and support	\$400,000	\$631,983	
Depreciation	\$225,000	\$229,334	
Insurance	\$787,254	\$650,043	
Subtotal (Fixed Cost subject to 29% margin)	\$7,059,526	\$6,407,714	
Employee retention compensation	\$99,637	\$72,757	
Legal (license appeal)	\$75,000	\$99,997	
Intangible asset amortization	\$625,000	\$625,000	
Subtotal (Fixed Cost not subject to 29% margin)	\$799,637	\$797,754	
Total Fixed Costs	\$7,859,163	\$7,205,468	

The actual Fixed Costs incurred during fiscal year 2006-2007 were \$7,205,468. This amount is \$653,695 less than the amount identified in Order Number 2007-418. Therefore, no adjustment is requested in this category of costs.

Variable Costs: \$163,674.50 Adjustment Proposed

Variable Labor and Non-Labor Costs

Commission Order No. 2007-418 identified the following categories of rates for projecting Variable Labor and Non-Labor costs: vault purchase and inspection (per vault), ABC waste disposal (per shipment), slit trench operations (per slit trench offload), customer assistance (per shipment), and trench records (per container).

The following table illustrates the Variable Labor and Non-Labor costs that would be calculated using the Variable Labor and Non-Labor rates identified in Order No. 2007-418 and the number of units in each category.

	Units	Variable Cost Rate in Order No. 2007-418	Calculated Cost
Vault Purchase & Inspection (per vault)	284	\$71.72	\$20,368.48
ABC Waste Disposal (per shipment) (total shipments, less slit trench shipments, less irregular project shipments)	266	\$1,009.56	\$268,542.96
Slit Trench Operations (per slit trench offload)	37	\$9,975.32	\$369,086.84
Customer Assistance (per shipment)	303	\$264.67	\$80,195.01
Trench records (per container)	627	\$56.43	\$35,381.61
Total Projected Variable Labor and Non-labor Cost			\$773,574.90

The actual Variable Labor and Non-Labor costs experienced in the disposal of waste in fiscal year 2006-2007 resulted in a Total Variable Labor and Non-Labor Cost of \$753,716. This amount is \$19,858.90 less than the amount that would have been anticipated based on rates provided in Commission Order 2007-418. Therefore, Chem-Nuclear does not request an adjustment in this category of costs.

Vault Costs

The following table illustrates the vault costs that would be calculated using the Variable Cost rates identified in Commission Order No. 2007-418 and the volumes of waste received in each respective category.

	Volume Buried (cubic feet)	Variable Cost Rate in Order No. 2007-418	Calculated Cost
Class A waste	11,477.05	\$35.00	\$401,696.75
Class B waste	11,013.78	\$36.72	\$404,426.00
Class C waste	8,555.52	\$36.15	\$309,282.05
Slit Trench waste	2,126.20	\$128.07	\$272,302.43
Irregular Components (in vaults as an irregular cost)	1,304.20	N/A	N/A
Irregular Components (not in vaults)	3,130.00		
Total Vault Cost			\$1,387,707.23
Total Volume	37,606.74		

The total cost incurred for routine disposal vaults used during fiscal year 2006-2007 was \$1,551,381.73. Therefore, Chem-Nuclear requests \$163,674.50 adjustment in this category of cost.

Irregular Costs: \$380,649 Adjustment Proposed

The following table summarizes the Irregular costs incurred in fiscal year 2006-2007 organized by projects. Exhibit B provides additional descriptions of each of these irregular projects. The total costs incurred in fiscal year 2006-2007, as Irregular costs, were \$590,415 compared to the amount identified in Commission Order No. 2007-418 of \$209,766. Chem-Nuclear therefore requests an adjustment of \$380,649 increase in Irregular Costs.

Irregular Cost Item	Basis For Order Amount	Actual FY 06-07 Labor	Actual FY 06-07 Non-Labor	Total Cost FY 06-07
Irregular Component Disposal: 24 tie bolt boxes from Norfolk Naval Shipyard, one shield from the PARR reactor, and the Reactor Pressure Vessel from Dairyland Power	\$40,000	\$13,149	\$153,305	\$166,454
Various Trenches (design, construct, and backfill): Trench 86, Trench 94, Trench 97, Slit Trench 29, Slit Trench 30, Slit Trench 31, Slit Trench 32, Slit Trench 33, and Slit Trench 34.	\$60,000	\$67,686	\$113,596	\$181,282
Decontamination and Corrective Actions	\$14,766	\$549	\$1,287	\$1,836
Deep Well & Monitoring Well abandonment		\$18,314	\$1,485	\$19,799
Site Engineering and Drawing Updates	\$60,000	\$41,003	\$12,497	\$53,500
Miscellaneous Irregular Costs (Clay Cap Evaluation Trench 86, Fertilize Multi-layer Caps)		\$29,844	\$6,681	\$36,525
License Renewal and Appeal costs	\$20,000	\$41,653	\$2,348	\$44,001
Repairs to Laboratory		\$841	\$22,848	\$23,689
Increased Security Controls		\$1,349	\$8,782	\$10,131
Other Irregular costs (Waste Tracking Special Requests, Database Software, Site Assessments, B&CB staff support, blocking and bracing site generated waste vaults)	\$15,000	\$16,715	\$36,483	\$53,198
Total Irregular Costs	\$209,766	\$231,103	\$359,312	\$590,415

**AMENDED EXHIBIT B:
FISCAL YEAR 2006-2007 IRREGULAR COSTS
ORGANIZED BY PROJECT**

PROJECT NUMBERS	PROJECT NAME AND EXPLANATIONS
188000.8005 188000.8006	<p>Decontamination and Corrective Actions (Labor \$548.57 and Non-labor \$1,286.99)</p> <p>Includes costs related to decontamination efforts and corrective actions that were required as a result of waste received for disposal. During fiscal year 2006-2007, costs incurred in these projects, although irregular and non-recurring in nature, were within the scope of waste disposal operations work.</p>
188004.8001	<p>Site Engineering & Drawing Updates (Labor \$41,003.40 and Non-labor \$12,497.26)</p> <p>Labor and contractor costs for site engineering support and preparation and reproduction of site drawings. The engineering support and drawings were required for various analyses and reports submitted to DHEC.</p> <p>Included in this project in fiscal year 2006-2007 were three primary tasks: (1) slit trench design package update, (2) rectangular vault efficiency update, and (3) custom vault evaluation.</p>
188007.8001	<p>Irregular Component Disposal (Labor: \$13,148.58 and Non-labor \$153,304.82)</p> <p>Non-routine operations. Includes costs associated with disposal of items that involve unusual handling requirements. Included are waste receipt and inspection, preparations to offload the shipping container or vehicle, placement of the irregular component in its disposal vault (if applicable), survey and transportation vehicle release and closeout. Irregular components disposed of in fiscal year 2006-2007 included twenty-four boxes of components (Tie Bolts) from Norfolk Naval Shipyard; one box containing a shield from the PARR reactor decommissioning project; and a Reactor Pressure Vessel from the Dairyland Power plant at Lacrosse, WI.</p>
188000.8007 188000.8009	<p>Deep Well Abandonment and Monitoring Well Abandonment (Labor \$18,314.25 and Non labor \$1,484.58)</p> <p>Labor and non-labor costs associated with abandonment of twenty-three environmental monitoring wells.</p>
188000.8008 188004.8002	<p>Miscellaneous Irregular Costs (Trench 86 Clay Cap Evaluation and Multi-layer cap fertilizer) (Labor \$29,843.78 and Non-labor \$6,681.30)</p> <p>Costs associated with work to evaluate the initial clay cover over waste in Trench 86. This evaluation includes survey for depth of cover, rework the clay cap as required and installation of earthen berms to divert rain water. Also included here are costs for fertilizing multi-layer caps installed over completed disposal trenches.</p>
188008.8001	<p>Increased Security Controls (Labor \$1,348.93 and Non-labor \$8,781.66)</p> <p>Costs associated with personnel and physical security enhancements as directed</p>

	by DHEC to implement increased controls over radioactive materials at the disposal site.
188701.8007 188701.8012 188701.8014 188701.8019 188701.8020 188701.8021 188701.8022 188701.8023 188701.8024	Various Trench Construction and Backfill Operations (Labor \$67,685.99 and Non-labor \$113,595.87) Trench construction activities in fiscal year 2006-2007 included design, construction and backfill (including use of free flowing sand where applicable) in Trench 86, Trench 94, Trench 97, Slit Trench 29, Slit Trench 30, Slit Trench 31, Slit Trench 32, Slit Trench 33, and Slit Trench 34.
952182.8002 952183.8001 952192.8002 188000.8011	Other Irregular Costs (Waste Tracking Special Requests, Waste Tracking Database Software, Site Assessments, B&CB Staff Requests, Site generated waste disposal vaults) (Labor \$16,715.30 and Non-labor \$36,482.78) Included here are costs for specific special requests for waste disposal data from generators, regulators and others acting in official capacities. Also included are special projects related to site performance as directed by DHEC or other competent authority. Generally these projects are related to regulatory or technical site performance. Costs for vaults for disposal of certain site generated waste when routine disposal vaults are not available are also included here.
952183.8002	Repairs to Barnwell Environmental and Dosimetry Laboratory (BEDL) (Labor \$840.80 and Non-Labor \$22,848.27) Repairs to the BEDL in fiscal year 2006-2007 included replacement of laboratory bench ventilation/fume hood, replacement of an air conditioning unit, roof leak repairs/resealing, and roof walkway refurbishment.
952188.8001 952188.8002 952188.8004 188000.8010	Appeal DHEC License, License Administration, SC Administrative Law Court Order Implementation, and Alternate Trench Construction Design (Labor \$41,652.60 and Non-Labor \$2,348.56) Non-routine activities by licensing department and others related to the appeal process for the DHEC radioactive materials license renewal. Included here are costs for Chem-Nuclear labor. Legal expenses are included in fixed costs. Also included here are costs for implementing actions directed by the Administrative Law Court Order related to the appeal of the license renewal.

**AMENDED EXHIBIT C:
FISCAL YEAR 2007-2008 COSTS**

We propose the following amounts be identified as allowable costs for fiscal year 2007-2008:

FIXED COSTS	
Fixed Costs to which 29% operating margin is added	
Labor and Fringe	\$2,900,000
Non-Labor	\$1,000,000
Corporate Allocations (Management Fees/G&A)	\$1,305,000
Depreciation	\$230,000
Insurance	\$680,000
Equipment Leases and Support	\$654,000
Fixed Costs to which 29% operating margin is not added	
Intangible Asset Amortization	\$625,000
Employee Retention Compensation	\$500,000
Legal Support (license appeal)	\$50,000
Total Fixed Costs	\$7,944,000
IRREGULAR COSTS	
Trench Construction	\$160,000
License Appeal	\$10,000
Corrective Action	\$10,000
Site Engineering Drawing	\$25,000
Irregular Components	\$10,000
Site Assessments	\$80,000
Miscellaneous	\$20,000
Total Irregular Costs	\$315,000
VARIABLE COSTS	
Variable Labor and Non-Labor Rates	
Vault Purchase and Inspection (per vault)	\$116.06
ABC Waste Disposal (per shipment)	\$1,128.34
Slit Trench Operations (includes laundry costs) (per slit trench offload)	\$8,412.28
Customer Assistance (per shipment)	\$295.26
Trench Records (per container)	\$73.81
Variable Material Costs (Vaults)	
Class A Waste (per cubic foot)	\$42.85
Class B Waste (per cubic foot)	\$43.05
Class C Waste (per cubic foot)	\$43.09
Slit Trench Waste (per cubic foot)	\$138.88

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 2000-366-A
(Year 2007-2008 Proceeding)

DIRECT TESTIMONY
OF
JAMES W. LATHAM
FOR
CHEM-NUCLEAR SYSTEMS, LLC

RECEIVED
2008 FEB 28 PM 2:00
SOUTH CAROLINA
PUBLIC SERVICE
COMMISSION

Q. PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.

A. My name is James W. Latham. My business address is 740 Osborn Road, Barnwell, South Carolina. I am employed by Chem-Nuclear Systems, LLC (“Chem-Nuclear”), a wholly-owned subsidiary of Duratek, Inc. which is, in turn, a wholly owned subsidiary of EnergySolutions, LLC. I am President of Chem-Nuclear and concurrently its Vice President for Barnwell Operations. As Vice President for Barnwell Operations, I am responsible for the safe and proper disposal of low-level radioactive waste received at the disposal facility in accordance with the company’s South Carolina Radioactive Material License. I am also responsible for management, supervision and administration of disposal operations personnel, equipment and buildings. I am frequently a key point of contact between the company and local community leaders and members of the public. I have been in my current operations position in Barnwell since July 1996.

Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I graduated from the United States Naval Academy with a Bachelor of Science degree. I served in the United States Navy for twenty years in various assignments associated with nuclear powered submarines. I have worked for CNS since 1989. From 1989 to 1991, I was a project manager planning and directing field projects for CNS. I was assigned to Chem-Nuclear's disposal site development office in Harrisburg, Pennsylvania, from 1991 to 1996. During my five years in the Pennsylvania Project Office, I held a number of positions including engineering director, deputy project manager, and acting project manager. I have been at the disposal facility in Barnwell since July 1996, first as General Manager for Disposal Operations and then as Vice President for Barnwell Operations. I was assigned the concurrent position of President in August 2006.

Q. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY BEFORE THE PUBLIC SERVICE COMMISSION?

A. I previously provided testimony at Public Service Commission proceedings regarding disposal site allowable costs in 2002, 2005, 2006, and 2007.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony will provide information to the Commission about the disposal site and facility operations as those matters relate to disposal of low-level radioactive waste at the disposal facility located in Barnwell County, South Carolina. I will provide a brief background on the general process we have used in this proceeding for identifying the allowable costs associated with our low-level radioactive waste disposal business. I have included an Amended Application for identification of allowable costs as an exhibit to my testimony. I will explain the differences between this Amended

Application and the original Application that we submitted in September 2007. The Amended Application reflects the agreements that we reached with the Office of Regulatory Staff during its audit of our allowable costs, and we request the Commission to approve our proposals for “allowable costs” in the Amended Application. My testimony will also focus on the principal differences in categories of costs between costs that we actually incurred in Fiscal Year 2006-2007 and the costs identified in Commission Order 2007-418. We are seeking adjustments to the variable costs and irregular costs incurred in Fiscal Year 2006-2007. Finally, my testimony will summarize the costs that we request the Commission to identify as allowable for Fiscal Year 2007-2008.

Q. PLEASE DESCRIBE THE DISPOSAL SITE.

A. Chem-Nuclear operates a low-level radioactive waste disposal facility located approximately five miles west of the City of Barnwell in Barnwell County, South Carolina. The closest municipality to the disposal site is the Town of Snelling. CNS has operated the disposal site since 1971 continuously with no interruptions or regulatory shutdowns. How we operate today has evolved over thirty-five years. We are proud of what we have learned and we are proud of our safety record.

The disposal site comprises approximately 235 acres of property owned by the State of South Carolina and leased by CNS from the South Carolina Budget and Control Board. The 235-acre licensed disposal area is divided into different use categories including active trenches, completed trenches, potential trench areas, and ancillary facility, water management and buffer zone areas. Approximately 97 acres of multi-layer earthen caps consisting of layers of compacted clay, bentonite, high-density polyethylene, sand, cover

soils. top soils and shallow-rooted vegetation (grasses) have been installed on completed trenches.

The disposal site could not be operated successfully without an experienced and talented group of employees. They are critically important to the safe and compliant operation of the disposal site. Many of the employees at the disposal site have been with the company for twenty years or more. Attracting and retaining high quality, well-motivated personnel is an integral part of successful, safe and regulatory compliant disposal of low-level radioactive waste.

Q. PLEASE DESCRIBE BRIEFLY THE STATUTORY AND REGULATORY BACKGROUND FOR CHEM-NUCLEAR'S APPLICATION THAT IS THE SUBJECT OF THIS HEARING.

A. This is the eighth hearing conducted by the Commission in this docket to fulfill its responsibilities under the "Atlantic Interstate Low-level Radioactive Waste Compact Implementation Act" of 2000. As required by the Act, the Commission has held formal proceedings annually and published orders after hearings by which the Commission has identified our "allowable costs." By that determination as provided by the Act, Chem-Nuclear is able to recover costs that it incurs for operations in the disposal of low-level radioactive waste at its Barnwell site.

Over the previous seven hearings, the Commission has relied on the evidence to make numerous determinations with respect to which of our costs are to be properly considered as "allowable," and the Commission has consistently refined its decisions on the issues. As a consequence, many of the issues that the parties addressed and the Commission decided in previous proceedings have been resolved, and the Commission's

orders represent the precedents upon which we have relied in preparing our Amended Application and our evidence.

Q. PLEASE EXPLAIN THE GENERAL CONCEPT THAT CHEM-NUCLEAR'S APPLICATION AND EVIDENCE EMBODY IN THIS PROCEEDING.

A. Our Amended Application and our evidence represent a similar approach to that used in last year's proceeding. We have separated costs into the three categories that were identified in the Collaborative Review of Chem-Nuclear's Operations and Efficiency Plan that the Commission approved and directed Chem-Nuclear to use in previous orders. Those three categories are fixed costs, variable costs and irregular costs. Our Amended Application and evidence also reflect the use of the accounting system that the Commission previously approved. That accounting system enables us to capture and track the separated costs as we incur them and incorporate the data effectively in our internal monthly data reports and in our exhibits to the Amended Application and our evidence.

The actual data collected in the three cost categories for Fiscal Year 2006-2007 provide information to adjust the projected costs the Commission identified as allowable in Commission Order 2007-418 to reflect actual operations experience. My testimony will identify the costs and categories for which we are seeking adjustments for Fiscal Year 2006-2007.

Q. PLEASE EXPLAIN THE DIFFERENCES BETWEEN CHEM-NUCLEAR'S ORIGINAL APPLICATION AND THE AMENDED APPLICATION PROVIDED AS AN EXHIBIT TO YOUR TESTIMONY.

A. The principal differences between the original Application and the Amended Application are in fixed costs and irregular costs for FY 2006-2007, and in anticipated costs for FY 2007-2008. The variable cost rates have remained the same.

Fixed Costs

Fixed Costs incurred in FY 2006-2007 and identified in the Amended Application are \$1,472,296 less than the fixed costs in the original Application. The reduction is primarily the result of a \$1,476,992 reduction in the amount of allowable General and Administrative (G&A) costs. I provide details about the allowable G&A costs later in my testimony.

Irregular Costs

The Irregular Costs identified in the Amended Application are \$19,955 more than the total irregular costs identified in the original application. The increase was due to costs for three concrete disposal vaults that were used to dispose of site-generated, low-level radioactive waste. Most of that site-generated waste resulted from slit trench offloads.

FY 2007-2008 Costs

Anticipated fixed costs for FY 2007-2008 identified in the Amended Application are \$1,522,394 less than the fixed costs anticipated in the original Application. The reduction is the result of a reduction in allowable G&A costs for FY 2006-2007 which forms the basis for the anticipated FY 2007-2008 G&A costs.

Irregular costs in the Amended Application are \$103,000 more than the irregular costs listed in the original Application for FY 2007-2008. This increase is based on costs incurred in the first half of FY 2007-2008 and on the expected level of activity in these irregular projects for the remainder of the year.

Q. PLEASE DESCRIBE THE MANNER IN WHICH CHEM-NUCLEAR TREATS “ALLOWABLE COSTS” UNDER THE REGULATORY PROCESS ESTABLISHED BY THE ACT.

A. Under the Act, the Commission method for adjusting costs previously identified as “allowable” is different from the regulatory treatment of the revenue requirements for other

regulated entities. First of all, the Act does not provide for the Commission to determine revenue requirements, including rate of return, based on a test year and fix our rates or charges to enable Chem-Nuclear to recover its revenue requirements. Under the Act, the Commission is not responsible to review the level of our revenues or to fix rates and charges. The Act empowers the Commission to identify our “allowable costs,” and we deduct the total of those costs (including a statutory operating margin applied to some costs) from the annual amount that Chem-Nuclear pays to the State.

At the end of each fiscal year, we compare the costs that we actually incurred to operate the site to the costs previously identified as allowable in the Commission’s order for that year. We only use the actual costs incurred as the amount that we request the Commission to identify as allowable in the following proceeding. That means that if we did not actually spend as much as the Commission has identified for a particular cost category, then we only propose to recover the actual amount spent as the allowable cost at the end of the year. If we spent more than the identified amount, we request the Commission to approve recovery of the difference in the subsequent fiscal year. Chem-Nuclear sometimes carries costs for a year or more until the Commission determines that we are entitled to recover them.

Q. PLEASE EXPLAIN HOW THE PROCESS WORKS BY USE OF AN EXAMPLE.

- A. Vault cost recovery is a good illustration of the method. Each year the Commission determines variable vault cost rates for standard disposal vaults that are dependent on the number of cubic feet of waste in four classifications received at the site (Class A, Class B, Class C, and Slit Trench waste). That “variable vault cost rate” can be used to forecast the vault costs in the next year, based on the volume of waste received in each category. However, it is difficult to predict accurately by waste classification the volume and mix of

waste that will be received in any given year. Therefore, the variable vault cost rate will sometimes forecast a dollar amount for vault costs that exceeds the actual amount spent. In such cases, the actual amount spent is used to determine Chem-Nuclear's cost recovery and fee, not the higher amount forecast by the variable vault cost rate. When the situation is reversed, that is, when the vault costs exceed the level previously identified by the Commission, as they did this year, Chem-Nuclear applies to recover the additional amount that we actually spent as allowable costs for the subsequent fiscal year.

Q. PLEASE EXPLAIN HOW THE ALLOWABLE PORTION OF CORPORATE GENERAL AND ADMINISTRATIVE (G&A) COSTS IS DETERMINED.

A. There are three components to the Corporate G&A Costs identified in our Amended Application. Those components and their respective allocation methods are: Corporate SG&A (total cost basis), Corporate Information Systems ("IS") allocation (based on the number of computers), and Columbia SG&A allocation (based on the number of disposal site personnel located in the Columbia, South Carolina, office). Since last year's proceeding, our parent company has grown and the pool of costs forming the basis for the Corporate SG&A allocations has expanded. At the same time, the percentage of costs allocated to the Barnwell disposal operations has become smaller. The Office of Regulatory Staff conducted a detailed audit of the pool of costs that formed the basis for Chem-Nuclear's G&A allocation to identify costs that were allowable and costs that were non-allowable under the Act. We amended our Application following the audit to reflect our agreement with the Office of Regulatory Staff on the allowable G&A costs.

Q. WHAT ALLOWABLE COSTS ARE INCLUDED IN G&A?

A. Corporate SG&A costs are allocated to each business unit on a total cost basis. The pool of costs that forms the basis for the Corporate SG&A Allocation consists of 121 separate

projects. Of those projects, 84 are considered non-allowable. These non-allowable projects made up 55% of the total pool in Fiscal Year 2006-2007.

The remaining 37 projects in the pool included costs for Corporate Facilities, Corporate Executive Management, Contracts and Finance, Contracts Legal Support, Human Resources Corporate Support, Accounting Corporate Support, Regulatory Affairs and Environmental, Safety, Health and Quality Assurance Corporate Support. The total cost for the 37 projects was \$29.9 million. We reduced that amount by \$8.6 million for costs that we considered to be non-allowable resulting in an allowable Corporate SG&A pool of \$21.3 million. The total cost allocation factor applied to that amount was 4.85% which resulted in allowable Corporate G&A costs of \$1,032,634.

The Corporate IS costs are allocated based on the number of computers in use within each business unit. The allowable costs allocated to the disposal site in that category were \$183,993.

Columbia SG&A costs are allocated to business units based on the number of employees in each respective business unit located in the Columbia, South Carolina, office. The allowable costs allocated to the disposal site in that category were \$38,163.

The total allowable Corporate G&A allocations for Fiscal Year 2006-2007 were \$1,254,790.

Q. PLEASE DESCRIBE THE ALLOWABLE COSTS INCURRED IN FY 2006-2007 AND COMPARE THOSE COSTS TO THE AMOUNTS IDENTIFIED IN COMMISSION ORDER 2007-418.

A. This part of my testimony focuses on the principal differences in categories of costs between costs that we actually incurred in Fiscal Year 2006-2007 and the costs that were identified in Order No. 2007-418. The actual costs incurred in Fiscal Year 2006-2007 are

also listed in our Amended Application. We are requesting adjustments to the variable vault costs and the irregular costs incurred in Fiscal Year 2006-2007.

Fixed Costs

Actual fixed costs incurred in Fiscal Year 2006-2007 were \$653,695 less than the fixed costs identified in Order No. 2007-418. The primary reasons that the actual fixed costs were less than the amount in the Order are lower labor and fringe costs, lower non-labor costs and lower insurance costs. Total fixed costs in Fiscal Year 2006-2007 were \$7,205,468. We are not requesting an adjustment in this category of cost.

Variable Material (Vault) Costs

The actual variable costs incurred in FY 2006-2007 for standard disposal vaults were \$163,674 more than the amount calculated using rates identified in Order No. 2007-418.

Costs incurred each year for standard concrete disposal vaults are affected by a number of factors including the size and shape of waste packages received and the number and type of vaults used for routine waste disposal. Each year, variable material cost rates (in dollars per cubic foot) for concrete disposal vaults have been developed for Class A waste, Class B waste, Class C waste, and slit trench waste. The rates developed can then be used as one predictor of the cost of vaults for the following year based on the various volumes of waste received in each waste classification and slit trench waste volumes. However, actual costs for the disposal vaults become known and measurable only at the conclusion of the year. Actual costs of \$1,551,382 were incurred for concrete disposal vaults used for routine shipments of low-level radioactive waste in Fiscal Year 2006-2007.

Q. PLEASE EXPLAIN WHY AVERAGE VAULT LOADING ALONE MAY NOT BE A GOOD PREDICTOR OF VAULT COSTS.

A. Vault loading in each of the three standard concrete disposal vaults (rectangular vaults, cylindrical vaults, and slit trench vaults) may be a general indicator of vault disposal efficiency, but other factors related to the characteristics of the received waste packages tend to have a stronger effect on the determination of vault costs per unit volume of waste. As previously mentioned, the size and shape of waste packages received affect vault loading. The package dose rates, requirements of the disposal site license to segregate stable and unstable wastes, handling precautions to maintain waste package integrity, and overall waste classification also affect how the vaults are loaded. We do, however, examine average vault loading each year. From time to time, certain materials for personnel protection and to control the potential spread of radioactive contamination which have become contaminated must be disposed in concrete disposal vaults. When possible, we try to utilize space around other billable waste packages in the vault; however, disposal of such site-generated waste may also reduce the amount of billable waste loaded into some of the vaults.

Q. PLEASE CONTINUE WITH YOUR EXPLANATION OF ALLOWABLE COSTS INCURRED IN FY 2006-2007.

A. I will continue with the variable labor and non-labor costs.

Variable Labor and Non-Labor Costs

In addition to the variable costs associated with disposal vaults, Order No. 2007-418 identified variable cost rates associated with five categories of activities: disposal vault purchase, inspection and placement; handling of Class A, Class B and Class C waste shipments; slit trench offload operations; waste acceptance; and waste shipment scheduling

and disposal records maintenance. The rates for each of those activities are associated with an independent variable (number of vaults, number of shipments buried, number of slit trench offloads, or number of waste containers buried). The variable labor and non-labor rates identified in Order No. 2007-418 predicted variable labor and non-labor costs within approximately 2.6% of the actual variable labor and non-labor costs that we incurred. Actual costs of \$753,716 were incurred for variable labor and non-labor expenses in Fiscal Year 2006-2007. That amount is \$19,859 less than the amount calculated using the rates identified in Order No. 2007-418.

Irregular Costs

Not all irregular costs for the year are known at the time when the Commission issues its order. Irregular costs are costs that are incurred for projects that may not occur each year or costs for projects that occur each year for which the costs vary. Each year irregular cost projects with varying costs include trench construction, site engineering and drawing updates, and other site construction projects. Projects that may not recur each year include irregular component disposal, site assessments and license renewal proceedings and hearings. Total irregular costs incurred for Fiscal Year 2006-2007 were \$380,649 more than the total irregular cost amount identified in Order No. 2007-418. Therefore, we request the Commission to identify the amount of \$590,415 as allowable.

Actual Irregular Costs Detailed by Projects

Because the total costs to dispose of irregular components (Norfolk Naval Shipyard refueling equipment, 24 tie bolt boxes), a reactor shield, and a reactor pressure vessel from Dairyland Power in LaCrosse, Wisconsin) were not known at the time of last year's audit, they were not completely included in Order No. 2007-418. Costs for disposal of the tie bolt boxes and the reactor shield included custom-sized concrete disposal vaults. The

reactor pressure vessel was approved as equivalent to a disposal vault. The total costs incurred to dispose of these irregular components were \$166,454.

Actual costs for design, construction, and backfilling various trenches were \$181,282. Trenches included in this amount for FY 2006-2007 were all or parts of: Trench 86, Trench 94, Trench 97, and Slit Trenches 29, 30, 31, 32, 33 and 34. Costs for all of these trenches were not included in Order No. 2007-418. The large number of slit trenches reflects a high level of activity in slit trench offloads as well as an effort to fully utilize areas of the site bounded by previously constructed trenches.

Costs incurred for decontamination and corrective actions were overestimated in Order No. 2007-418. Actual costs of \$1,836 were incurred in this category.

Costs for various activities associated with abandonment of wells were not included in Order No. 2007-418. From time to time, the South Carolina Department of Health and Environmental Control (“DHEC”) approves the abandonment of certain environmental monitoring wells. Actual costs for abandonment of twelve environmental monitoring wells in accordance with DHEC regulations were \$19,799.

Site engineering and drawing updates include: Site engineering support and preparation and reproduction of site drawings; design package updates for slit trench disposal vaults; rectangular vault efficiency update; and custom vault design review. The actual costs of \$53,500 were less than the amount included in Order No. 2007-418.

Miscellaneous irregular projects included costs for the initial clay cap evaluation of Trench 86 and fertilizer for completed multi-layer caps on other trenches. The costs incurred in FY 2006-2007 for those activities were \$36,525, and were not included in Order No. 2007-418.

CNS labor and related costs associated with the disposal site license renewal and the pending appeal were on-going at the time of last year's proceedings. The actual costs incurred for those irregular project tasks in FY 2006-2007 were \$44,001.

Costs associated with personnel and additional physical security enhancements related to radioactive materials at the disposal site and directed by DHEC were not known at the time of last year's proceedings. The actual costs for those activities in FY 2006-2007 were \$10,131.

Other irregular costs include costs for special waste tracking requests from customers and regulatory agencies, special projects related to site technical performance directed by DHEC, and costs for concrete disposal vaults for certain site-generated wastes including blocking and bracing from shipments received when space was not available in other disposal vaults. Actual costs incurred for those activities were \$53,198.

Q. PLEASE DESCRIBE THE COSTS PROPOSED FOR FISCAL YEAR 2007-2008.

- A.** The costs proposed for FY 2007-2008 are summarized in Amended Exhibit C. Most of these costs are conservative estimates developed from the actual costs experienced in FY 2006-2007 with nominal inflationary increases applied to certain of the cost categories. In some cases, our actual experience during the first half of FY 2007-2008 indicates there will likely be additional increases in prices for items such as construction materials, fuels and those materials manufactured from petroleum-based products.

The fixed labor costs (labor and fringe costs) proposed for Fiscal Year 2007-2008 and non-labor fixed costs proposed are based on actual fixed labor costs incurred in Fiscal Year 2006-2007 with nominal increases applied. Corporate Allocations (G&A) were increased by 4% from actual costs incurred in Fiscal Year 2006-2007. Insurance costs

proposed for Fiscal Year 2007-2008 are based on costs for the preceding year increased by 4% and equipment rental/lease costs were increased by 3.5%.

Fixed costs to which the statutory 29% margin does not apply include intangible asset amortization, employee retention compensation program costs and legal expenses. Intangible asset amortization costs do not increase from one year to the next. The costs for the employee retention compensation program proposed for Fiscal Year 2007-2008 include a payout of the amounts that have been held for each employee over the past five years as well as payout of amounts due under the retention compensation plan for Fiscal Year 2007-2008. Legal expenses were estimated to be continuing because of the license renewal appeal process.

Total fixed costs proposed for Fiscal Year 2007-2008 are \$7,944,000.

Proposed Irregular Costs

As I previously discussed, not all irregular costs were known at the time that the original Application was submitted. The irregular costs identified in Amended Exhibit C to the Amended Application are based on costs incurred during the first half of Fiscal Year 2007-2008 and for a modest level of activities expected in the second half of the fiscal year. The total of \$315,000 in various irregular project costs is summarized in Amended Exhibit C to our Amended Application.

Proposed Variable Labor and Non-Labor Cost Rates

Actual variable labor and non-labor costs incurred in Fiscal Year 2006-2007 in the five variable cost projects increased by 3.5% and form the basis for new variable cost rates proposed for Fiscal Year 2007-2008 as shown in Amended Exhibit C to our Amended Application.

Proposed Variable Material (Vault) Cost Rates

The actual variable cost rates for concrete disposal vaults used in Fiscal Year 2006-2007 were calculated using the same method that we have previously used. The actual rates for Fiscal Year 2006-2007 were increased by 3.5% based on continuing vault construction material cost increases being experienced by our vault supplier as shown in Amended Exhibit C to our Amended Application.

Q. DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes it does.